

**RHODES, HIERONYMUS, JONES, TUCKER & GABLE, P.L.L.C.**  
**LAWYERS**

ONEOK Plaza  
100 West 5<sup>th</sup> Street, Suite 400  
Tulsa, Oklahoma 74103-4287  
Telephone (918) 582-1173  
Fax (918) 592-3390  
[www.rhodesokla.com](http://www.rhodesokla.com)

Mailing Address  
P.O. Box 21100  
Tulsa, Oklahoma 74121-1100

Chris L. Rhodes, III  
Bert M. Jones  
John H. Tucker  
Jo Anne Deaton  
Dan S. Folluo  
Ann E. Allison  
Andrew D. Downing  
Bradley A. Jackson  
Colin H. Tucker

Kerry R. Lewis  
Leslie J. Southerland  
Nathan E. Clark  
Theresa Noble Hill  
Carlye O. Jimerson  
Bradley S. Shelts  
Lindsay J. McDowell  
Margaret M. Clarke  
Denelda L. Richardson

Hal Crouch (1902–1947)  
Chris L. Rhodes (1902–1966)  
E. D. Hieronymus (1908–1994)  
George W. Gable (1918–2000)

— Est. 1931 —

**RhodesHieronymus**  
**O K L A H O M A**

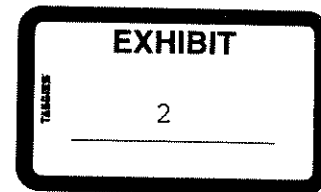
Reply to: **John H. Tucker**  
[jtucker@rhodesokla.com](mailto:jtucker@rhodesokla.com)

September 26, 2005

***Certified Mail***  
***Return Receipt Requested***

City Clerk  
City of Watts  
County Road 08049  
Watts, Oklahoma 74964

Watts Public Works Authority  
County Road 08049  
Watts, Oklahoma 74964



Re: Notice of Claim Pursuant to Oklahoma's Governmental Tort Claims Act and Notice of Claim pursuant to Solid Waste Disposal Act

Dear Sir/Madam:

Pursuant to OKLA. STAT. tit. 51 § 156 and 42 U.S.C. § 6972(a)(1)(B), Cargill Turkey Production, LLC ("CTP") and Cargill, Inc. ("Cargill") are providing you with its ninety-day notice of claim.

On June 13, 2005, the Attorney General for the State of Oklahoma filed a lawsuit in the Northern District of Oklahoma against CTP, Cargill and other companies. On August 19, 2005, the Attorney General filed his First Amended Complaint. A copy of the First Amended Complaint is attached hereto. In its Amended Complaint, the State of Oklahoma has asserted claims under the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, the Solid Waste Disposal Act ("SWDA"), 42 U.S.C. § 6972, state and federal statutes, and state and federal common law. Because the Attorney General served this lawsuit on CTP, Cargill and other companies, the same law requires that CTP and Cargill provide a 90-day notice to any other entity, party or company that they claim should be a part of any lawsuit filed by the Attorney General.

In his Amended Complaint, the Attorney General alleges that Illinois River Watershed has been damaged by poultry litter and its constituents, including the nutrients contained within poultry litter such as phosphorous and phosphorous compounds, and nitrogen and nitrogen compounds. The Attorney General is claiming that poultry litter is a federally regulated solid and/or hazardous

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waste, and that its use in this Watershed is creating an "imminent and substantial endangerment to human health and the environment." The heart of the Attorney General's claim is that when poultry litter is applied to the land within the Watershed as a fertilizer, excess phosphorous and other components of the litter run-off the land and enter into the waters of the State of Oklahoma causing environmental harm.

CTP, Cargill and the other companies deny that poultry litter or nutrients, such as phosphorus, are solid or hazardous wastes, that any damage has occurred, or that they or their contract poultry growers have violated any law. However, since the Attorney General claims that the release of the constituents of poultry litter including nutrients into the Illinois River Watershed are the source of alleged damages, other sources such as municipal waste systems, recreational facilities and their waste handling facilities, may be potentially liable under the same theories under state and federal law. You are receiving this notice pursuant to 42 U.S.C. § 6972(a)(1)(B) and OKLA. STAT. tit. 51 § 156, because your activities may be contributing nutrients and other substances to the waters in the Illinois River Watershed, by virtue of your operations of the aforementioned types, and the Attorney General has claimed that such nutrients and substances are causing an "imminent and substantial endangerment to human health and the environment."

CTP, Cargill, and the other companies deny the State's allegations, including that damage has occurred and deny that they are responsible for any such damage. However, because the State of Oklahoma instituted this litigation, CTP and Cargill intend to bring Third-Party Complaints against you, other point source contributors, and other non-point source contributors seeking relief in the form of an injunction requiring the third-parties to participate with CTP, Cargill and the other companies in each and every aspect of relief the Attorney General intends to achieve to the extent permissible under Oklahoma's Governmental Tort Claims Act. CTP and Cargill will also seek all other equitable and legal remedies available.

The State of Oklahoma is seeking the following in its First Amended Complaint:

- I. All past monetary damages suffered by and all costs and expenses incurred by the State of Oklahoma in the Illinois River Watershed;
- II. All future monetary damages suffered by and all costs and expense incurred by the State of Oklahoma as result of and in connection with the continuing effects of the wrongful conduct in the Illinois River Watershed;
- III. A permanent injunction requiring the immediate abatement of pollution-causing conduct in the Illinois River Watershed, to remediate the Watershed, including the lands, waters and sediments therein, and to take all such actions as may be necessary to abate the imminent and substantial endangerment to the health and the environment;
- IV. All costs associated with assessing and quantifying the amount of remediation and natural resource damages as well as the amount of the natural resource damages itself;

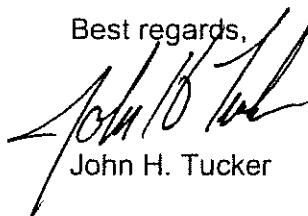
September 26, 2005

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- V. Restitution in an amount sufficient to make the State of Oklahoma whole for loss and damages it has suffered by release of these alleged constituents into the Illinois River Watershed;
- VI. Disgorgement of all gains realized in consequence of the release of these alleged constituents into the Illinois River Watershed;
- VII. Statutory penalties; and
- VIII. Reimburse the State for its attorney's fees and costs.

CTP and Cargill shall seek the same relief from Third-Party Point Source Contributors and Non-Point Source Contributors including the City of Watts to the extent permitted by law. It is CTP and Cargill's position that any comprehensive and effective resolution to reduce the level of these constituents in the Illinois River Watershed must involve all stakeholders and potential contributors.

Best regards,



John H. Tucker

JHT:sw  
Enclosure

cc: The Honorable Brad Henry  
Governor of the State of Oklahoma  
State Capitol, Room 212  
Oklahoma City, Oklahoma 73105

Stephen J. Johnson  
Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Richard Green  
Regional Administrator  
Environmental Protection Agency  
Region 6  
1445 Ross Ave. Ste 1200  
Dallas, TX 75202

Steve Thompson  
Executive Director  
Oklahoma Department  
of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

The Honorable W.A. Drew Edmondson  
Attorney General of the State of Oklahoma  
2300 N. Lincoln Blvd., Ste 112  
Oklahoma City, OK 73105

7160 3901 9842 8915 0582

US Postal Service	
<b>Certified Mail Receipt</b>	Postage \$ 3.85
Domestic Mail Only No Insurance Coverage Provided	Certified Fee 2.30
	Return Receipt Fee (Endorsement Required) 1.05
	Restricted Delivery Fee (Endorsement Required)
Sent To: City Clark City of Watts County Road 08049 Watts, OK 74964	Total Postage & Fees \$ 7.20
Postmark Here	

PS Form 3800, January 2005

US Postal Service

**Certified Mail Receipt**

1790-2 JH1/80

COMPLETE THIS SECTION ON DELIVERY	
A. Received by (Please Print Clearly)	B. Date of Delivery 9-28-05
C. Signature <i>Donna the Helper</i>	<input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee
D. Is delivery address different from item 1? YES, enter delivery address below:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

2. Article Number

3. Service Type CERTIFIED MAIL

4. Restricted Delivery? (Extra Fee) ☒ Yes

1. Article Addressed to:

City Clark  
City of Watts  
County Road 08049  
Watts, OK 74964

PS Form 3811, January 2005

1790-2 JH1/80

Domestic Return Receipt



7160 3901 9842 8915 0599

<b>US Postal Service</b>	
<b>Certified Mail</b>	
<b>Receipt</b>	
Domestic Mail Only No Insurance Coverage Provided	
Postage	\$ 3.85
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.15
Postmark Here	
SEP 27 2005 TULSA OK 74106	

Sent To:  
**Watts Public Works Authority,  
County Road 08049  
Watts, OK 74964**

PS Form 3800, January 2005 US Postal Service **Certified Mail Receipt**

1790-2 JHT/sw

2. Article Number

7160 3901 9842 8915 0599

3. Service Type: **CERTIFIED MAIL**

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PS Form 3800, January 2005 Domestic Return Receipt

1790-2 JHT/sw

<b>COMPLETE THIS SECTION ON DELIVERY</b>	
A. Received by (Please Print Clearly)	B. Date of Delivery 9-28-05
Signature <i>Donna St. Alpha</i>	
C. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No	
D. If Yes, enter delivery address below:	